

**STANDARDS FOR
EXEMPTION OF FEDERAL
PAYMENTS**

into the

**TREASURY OFFSET
PROGRAM**

Standard Operating Procedures

January 1997

Department of the Treasury
Financial Management Service
Debt Management Services

Standards for Exemption of Payments into the Treasury Offset Program

Exemption of Payments into the Treasury Offset Program

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Attachment

Payments Exempt From the Program

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Purpose

This procedure explains the requirements of the law and how Federal agencies may request exemptions of their payments from the application of the law.

Means Tested Payments

The Debt Collection Improvement Act of 1996 states: "The Secretary of the Treasury shall exempt from administrative offset under this subsection payments under means-tested programs when requested by the head of the respective agency."

- A. For purposes of this procedure, Treasury/Financial Management Service (FMS) defines "means-tested programs" as those programs for which eligibility is based on a determination that income and/or assets of the beneficiary are inadequate to provide the beneficiary with an adequate standard of living without program assistance. Examples are, but not limited to, food stamp programs, supplemental security income programs, temporary assistance to needy families programs.
- B. The head of the agency which administers means-tested programs must request an exemption in writing from the Secretary of the Treasury. The Secretary of the Treasury will not automatically exempt means-tested payments without a request from the agency that administers the program.
- C. The request should describe the means-tested payments under the statutory authority of the requesting agency and provide citations to statutes and regulations governing these means-tested payments. No additional justification for the request is necessary.
- D. Upon receipt of the request with the description of the means-tested payments and the statutory and regulatory citations, the Secretary of the Treasury shall promptly review the request. Based

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on a conclusion that the payments meet the definition of means-tested described in Section A. above, the Secretary of the Treasury shall grant the exemption in writing to the requesting agency.

All Payments Other than Means-tested

Regarding these payments, the Debt Collection Improvement Act of 1996 states: "A written request for exemption of other payments must provide justification for the exemption under standards prescribed by the Secretary. Such standards shall give due consideration to whether administrative offset would tend to interfere substantially with or defeat the purposes of the payment certifying agency's program."

- A. The head of the agency which is requesting an exemption of certain payments from the offset program must request the exemption from the Secretary of the Treasury.
- B. The request should 1) describe the payments at issue and include citation to the statutes and regulations governing these payments; 2) explain how offsetting the payments will interfere with or defeat the purposes of the particular program for which the payments are made. A simple statement that offsetting the payments will interfere with or defeat the purposes of the program will be insufficient. Rather, an explanation of the effect of offsetting such payments must be included in the request for exemption, as well as a description of how no other alternatives exist, or are reasonable, to accomplish the program objectives.

For illustrative purposes only, we are providing two hypothetical examples.

Example No. 1.

The payments which we make are pursuant to the Victims of Natural Disaster Assistance Act, PL 1997-01, 54 C.F.R. Part 3. Recipients of the payments are people who have

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lost their living quarters (homes, apartments, etc.) and who qualify for disaster assistance payments to find places to live. Denying the assistance, even if the recipient is a delinquent debtor to the Federal Government, will result in terrible hardship and homeless people. There is no other similar assistance available to these people.

For this reason, we request exemption of these payments from the government-wide administrative offset program operated by Treasury and other disbursing officials since offsetting the payments will defeat the purposes of the Victims of Natural Disaster Assistance Act.

[Good request--payments described; citations provided; no other alternatives available; logical conclusion that offsetting the payments will defeat the purpose of the program]

Example No. 2

The payments which we make are to food service providers. These food service providers supply hot lunches daily to children. Denying these payments will result in the denial of food to hungry children. We request an exemption since denial of the payments to these food service providers will defeat one of the purposes of our program.

[Bad request--payments loosely described; no citations; other alternatives seem possible at least in big cities; no logical conclusion that the purpose of the program will be defeated since providers of the same service who are not delinquent debtors to the Federal Government seems possible and reasonable]

- C. Upon receipt of the request with the description of the payments, the statutory and regulatory citations, and a recommendation that

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including the payments will defeat the purpose of the program, the Secretary of the Treasury shall promptly review the request. Based on a conclusion that the payments should be excluded, the Secretary of the Treasury shall grant the exemption in writing to the requesting agency. If the Secretary of the Treasury determines that the payments should remain in the administrative offset program, he will deny the request with explanation to the requesting agency.

Statutory Exemptions Not Requiring Exemption by the Secretary of the Treasury

The Debt Collection Improvement Act of 1996 permits the Secretary of the Treasury to grant or deny exemptions to the administrative offset program when payments are not otherwise statutorily excluded. However, another statute may specifically exclude certain payments from any administrative offset program. In such a situation, the head of the agency should notify the Secretary of the Treasury of this statutory exclusion and the Secretary of the Treasury shall acknowledge the exclusion. But it is not within the purview of the Secretary of the Treasury to accede to or deny such exemptions where statutes have already spoken.

Sending Exemption Request

The request should be addressed to the Secretary of the Treasury, 1500 Pennsylvania Ave., NW, Washington, DC 20220.

A copy of the request should also be sent to the Assistant Commissioner of Debt Management Services, Financial Management Service, 401 14th St., SW, Room 446, Washington, DC, 20227.

Report To Congress on Exemptions for Payments

The Debt Collection Improvement Act of 1996 states: "The Secretary shall report to the Congress annually on exemptions granted under this section."

The Financial Management Service, on behalf of the Secretary of the

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Treasury, will maintain a current list of all payments that are 1) exempt by statute; 2) exempt by action of the Secretary of the Treasury; and 3) requests for exemptions that were denied by the Secretary of the Treasury. This report will be provided to the Congress annually.

Exempt Payments Report

Attached to this document is a list of the payments that are exempt from the Treasury Offset Program as of the date of this document. As additional statutory exemptions surface, and as additional requests for exemptions from the Secretary of the Treasury are granted or denied, this attachment will be updated to provide current and accurate information.

Inquiries

Any inquiries may be made to:

Treasury Offset Program
Financial Management Service
Room 154, Liberty Center
401 14th St., SW
Washington, DC 20227
202-874-6660

ATTACHMENT

TREASURY OFFSET PROGRAM PAYMENTS EXEMPT FROM PROGRAM

A. PAYMENTS EXEMPT BY STATUTE FROM TREASURY OFFSET PROGRAM

1. Payments certified by the Department of Education under a program administered by the Secretary of Education under Title IV of the Higher Education Act of 1965.

Statute--The Debt Collection Improvement Act of 1996.

2. Payments under the Department of Veterans Affairs pension and parents' dependency and indemnity compensation programs.

Statute--Section 5301 (a) of Title 38, U.S. Code.

3. Payments under the tariff laws of the United States.

Statute--The Debt Collection Improvement Act of 1996.

B. PAYMENTS EXEMPT BY STATUTE FROM OFFSET FOR PAST-DUE CHILD SUPPORT DEBTS ONLY

1. Same as items 1,2,3 in Section A.
2. Payments made to an individual under the Social Security Act, under Part B of the Black Lung Benefits Act, and under any law administered by the Railroad Retirement Board.

Statute--The Debt Collection Improvement Act of 1996.

C. PAYMENTS EXEMPT BY ACTION OF THE SECRETARY OF THE TREASURY

1. Commissioner of Social Security Administration requested exemption of Supplemental Security Income (SSI) payments from the Treasury Offset Program. The request describes these SSI payments as means-tested. After review, the Secretary of the Treasury granted the exemption of SSI payments from the Treasury Offset Program by letter of April 7, 1997 to the Social Security Administration.

D. REQUESTS FOR EXEMPTION DENIED BY THE SECRETARY OF THE TREASURY

No requests for exemptions by the Secretary have been denied at this time.

This list is current as of 4/25/97.